

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 836 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MUNICIPAL CORPORATION OF THE

Versus

BABUBHAI OGHADBHAI

Appearance:

MR BP TANNA for Petitioner

MR TR MISHRA for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 22/04/99

ORAL JUDGEMENT

1. In this petition under Art. 227 of the Constitution of India, the petitioner Municipal Corporation, Ahmedabad has challenged the order recorded by the Labour Court in Recovery Application No.844/79.
2. The respondent had filled the recovery Application No.844/79, under the provisions of Sec.

33(c)(2) of the Industrial Disputes Act, 1947, in the Labour Court, Ahmedabad, for the over time work for last 10 years as he remained on duty for 24 hours w.e.f. 16.10.71, he therefore, claimed an amount of Rs.1,29,800/- on account of over-time. The Recovery Application was challenged contending that the respondent employee was provided free rent quarter and that on account of this quarter, given to him, he was required to perform additional duties given to him. It is contended that the respondent employee had to work and remain on duties for 24 hours.

3. After having heard the Learned Advocate for the parties, and considering the facts and circumstances, the Labour Court by virtue of impugned order, found that the watchmen were working over-time. It was proved and therefore, each watchman was awarded 35% of the amount admissible to each employee as 3 Recovery Applications were heard together by the Labour Court out of which, the respondent's application was one of them.

4. "Duties of the Watchmen" are elaborately articulated in para 15 of the order. After considering all the facts and circumstances, and hearing the parties, the Labour Court found that the respondent employee is entitled to the amount of over-time as per the order dtd. 20.11.84.

5. The scope of provisions made under Art. 227 is very much circumscribed. The Court has to consider only whether the decision making process is any way affected or influenced, whereby, the merit for justice is adversely affected. The powers under Art. 227 are superintendents powers, and this is not an appellate Court under Art. 227. This Court cannot interfere even if the assessment and analysis of the evidence given a rise to difference perception. There is nothing illegal or perverse in the impugned order. With the result, the petition challenging the impugned order is required to be rejected and is rejected. No order as to costs. Rule discharged.

Date:22-04-1999. (J.N. Bhatt, J)

sanjay.

